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TO VALIDATE CERTAIN CONVEYANCES IN THE CITY OF TULARE, TULARE COUNTY, CALIFORNIA

OCTOBER 31, 1997.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany H.R. 960]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 960) to validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 960 is to validate certain conveyances of the Southern Pacific Railroad Right-of-Way through the city of Tulare, California to the City's Redevelopment Authority.

BACKGROUND AND NEED

From 1862 to 1871, the Congress passed the Pacific Railroad Acts to promote a system of railroads in the Western United States. The Acts granted the Southern Pacific Railroad Company (the "Railroad") a right-of-way along the route where the tracks were eventually constructed. In Tulare, California, this right-of-way measures 220 feet on both sides of the tracks. That portion of the right-of-way which passes through Tulare falls within the city's Downtown Redevelopment Area.

The courts have characterized the Pacific Railroad Act right-of-way grants as "limited fee made on an implied condition of reverter" if the Railroad ceases to sue the right-of-way for the purposes for which it was granted. If the Railroad ever forfeited or abandoned the land for railroad use, ownership would automatically revert back to the United States. If this were to happen, the

Bureau of Land Management (BLM) would assume management of these lands.

Over 100 years have passed since the Railroad started using this right-of-way, and its successor, Union Pacific, still runs over 30 trains per day through the city. However, because the Railroad is unable to pass clear title to the land within the right-of-way, redevelopment along the tracks is practically impossible. Consequently, the city of Tulare has a barren strip of weeds, sand, and abandoned buildings 200 feet wide on both sides of the tracks.

H.R. 960 will facilitate redevelopment of the city's downtown area by validating the conveyance of these rights-of-way (comprising approximately 60 acres) from the Southern Pacific Railroad (and its successor, the Union Pacific Railroad) to the Tulare Redevelopment Agency. With the transfer completed, the Agency will be able to pursue its ten-year redevelopment program. In order to proceed with financing, marketing, and other redevelopment activities, the Agency must have the ability to acquire clear title to all these parcels without the incombrance of the federal reversionary interest.

The BLM has examined the lands in question along with the city's redevelopment plans, and has concluded that the parcels are best suited for local development.

LEGISLATIVE HISTORY

H.R. 960, sponsored by Congressman William M. Thomas, was passed by the House of representatives by a voice vote on July 8, 1997. On September 25, 1997 the Senate Subcommittee on Forests and Public Land Management held a hearing on the bill.

COMMITTEE RECOMMENDATION AND TABULATIONS OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on October 22, 1997, by voice vote of a quorum present, recommends that the Senate pass H.R. 960 without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1 contains congressional findings.

Section 2(a) validates all conveyances to the Redevelopment Agency of the city of Tulare, California for the lands described in Sec. 2(b) by the Southern Pacific Transportation Company or its successors.

Subsection (b) identifies the lands for which the conveyances are validated.

Subsection (c) clarifies that nothing in the bill impairs existing access across the lands described in Subsection (b).

Subsection (d) relinquished all Federal right of surface entry to the mineral estate of the lands described in Section 2(b).

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 23, 1997.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 960, an act to validate certain conveyances in the city of Tulare, Tulare County, California, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 960—An act to validate certain conveyances in the city of Tulare, Tulare County, California, and for other purposes

H.R. 960 would give the Southern Pacific Transportation Company or its successors the right to convey title to certain lands in the city of Tulare, California, that form part of a right-of-way previously granted to the railroad by the federal government. Hence, the act would validate land conveyances where the federal government owns the underlying title and the railroad controls the right-of-way. The legislation would apply to both past and future conveyances. CBO estimates that enacting H.R. 960 would have little or no impact on the federal budget.

Under current law, if the railroad ceased to operate on the right-of-way, then land comprising the right-of-way would revert to federal ownership. According to the Bureau of Land Management (BLM), if the agency were to receive the land it would have no interest in retaining ownership and would either sell it, exchange it, or transfer it to local government. BLM estimates that the portion of the right-of-way that would be affected by H.R. 960 has a market value of about \$300,000.

Enacting H.R. 960 would affect direct spending if property that would have reverted to the federal government and been sold under current law is not sold because of conveyances made pursuant to this bill. Because H.R. 960 could affect direct spending, pay-as-you-go procedures would apply. But the likelihood of any income to the Treasury from sale of the affected property over the next 10 years is small.

H.R. 960 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments. The bill would benefit the city of Tulare by clearing the title to one parcel of land already purchased by the city and allowing the Tulare Redevelopment Agency to purchase and develop several additional parcels.

On July 3, 1997, CBO prepared a cost estimate for H.R. 960 as ordered reported by the House Committee on Resources on June

25, 1997. The two versions of H.R. 960 are identical, as are the cost estimates.

The CBO staff contacts for this estimate are Victoria V. Heid (for federal costs) and Marjorie Miller (for the state and local impact). The estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 960. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of H.R. 960 as ordered reported.

EXECUTIVE COMMUNICATIONS

The legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to H.R. 960 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 21, 1997.

Hon. FRANK MURKOWSKI,
Chairman, Senate Committee on Energy and Natural Resources,
Washington, DC

DEAR MR. CHAIRMAN. Thank you for the opportunity to present the views of the Department of the Interior (Interior) on H.R. 960, a bill to extinguish the Federal government's right of reversion on lands encumbered by a railroad right-of-way within Tulare, California. Interior testified on this bill before the Subcommittee on Forests and Public Land Management on September 25, 1997. Interior also testified before the House Resources Subcommittee on National Parks and Public Lands on May 20, 1997. In the House, Interior testified it would support the bill if certain changes were made to the bill. Those changes have been made in the bill as passed by the House. Interior therefore supports passage of H.R. 960.

H.R. 960 would eliminate all rights of the United States to land within a railroad right-of-way, granted by an Act of Congress on July 27, 1886, in downtown Tulare, California. The City of Tulare has requested this action in order to obtain clear title to those portions of the right-of-way within an Urban Redevelopment Plan adopted by the City. H.R. 960 would accomplish this by validating conveyances made prior to or after April 15, 1996, to the City of Tulare's Redevelopment Agency by the Southern Pacific Transportation Company, the holder of the railroad right-of-way (or its successor, presently Union Pacific Railroad).

Currently, some 30 trains a day cross the tracks in the center of this right-of-way through downtown Tulare and the railroad owner

has no plans to stop using the tracks. Therefore, until abandonment is legally determined, the property does not revert to the Federal government.

Our understanding of the situation is that the City of Tulare attempted to acquire one parcel of land within the right-of-way for redevelopment purposes and was informed by their title company that it would not insure title because of the reversionary nature of the railroad's right-of-way. Because of this, the City did not attempt to acquire any of the remaining lands within its redevelopment area (encompassing approximately 60 acres) pending resolution of this issue.

The right-of-way granted pursuant to the Act of July 27, 1866, is a grant of a limited fee, made on an implied condition of reverter in the event that the company ceased to use or retain the land for the purpose for which it was granted. By the Act of May 24, 1920 (43 U.S.C. 913), the railroad owners were authorized to convey to States, counties or municipalities the outer portions of the right-of-way for use as a public highway or street (such conveyances would still be subject to the possible future reversion to the United States). The 1988 National Trails System Act (16 U.S.C. 1248(c)), provides that, "* * * all right, title, interest, and estate of the United States * * * shall remain in the United States upon the abandonment or forfeiture * * *" of the railroad.

BLM has examined the lands in downtown Tulare and has concluded that because of their location, and having reviewed the City's plans, the lands are best suited for local development as planned by the Redevelopment Agency.

BLM is not interested in managing the lands involved even if they did revert to the Federal Government. In the interim, the City of Tulare deserves to be able to plan for the development of its downtown and revitalize its business center. The only way that this public goal can be realized is for the Federal government to relinquish its interest in the property involved through legislation such as H.R. 960.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely,

BOB ARMSTRONG,
Assistant Secretary for Land and Minerals Management.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 960, as ordered reported.

